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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,292

06/16/2005

Thomas Schmid

7863-84346

2467

42798

7590

06/08/2006

FITCH, EVEN, TABIN & FLANNERY

P. O. BOX 65973

WASHINGTON, DC 20035

EXAMINER

SUTTON, ANDREW W

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/539,292

Applicant(s)

SCHMID ET AL.

Examiner

Andrew W. Sutton

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-17 and 19 is/are rejected.
- 7) ☐ Claim(s) 11 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This supplemental action is being sent to clarify the record as to the correct patent number for the Koch reference as 4,342,339.

#### ***Information Disclosure Statement***

An abstract or copy of reference EP 0 874 030 was not received and was not considered.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant states that claim 18 is dependent of the heddle support rail of claim 1. The applicant is not claiming a heddle support rail in claim 1. The examiner is claiming a heddle support rail in claim 16. The following action will be based on the assumption that claim 18 is dependent on claim 16.

Secondly, it is unclear as to what the applicant is claim as Claim 1 states a heddle, claims 16-18 state a heddle support rail, and claim 19 states a heddle shaft. It is unclear as to what the applicant is claiming in claims 16-19 and it needs to be clarified.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 13, 15-17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Palua (US 3,961,649). Palua illustrates a heddle 11 for a loom having an elongated body, which on one end has an eyelet 80 for securing the heddle 11 to the heddle support rail 18 and a spring means 130 (rubber cord), which is attached to the end eyelet 80.

As to claim 2, Palua illustrates in Fig. 10 the spring means 130 being integrally attached to end eyelet 80.

As to claim 3, Palua illustrates in Fig. 10 the spring means 130 is disposed on end eyelet 80 on the side facing away from the heddle body 11.

As to claim 4, Palua illustrates in Fig. 10 the spring means 130 being a tensioning means for supporting the heddle. It is inherent that the spring means be prestressed for the heddle structure to work.

As to claim 5, Palua illustrates in Fig. 10 the spring means 130 is formed by a resilient portion extending away from the end eyelet 80.

As to claim 6, Palua illustrates in Fig. 8 the spring means 130 acting in the longitudinal direction of the heddle.

As to claim 13, Palua illustrates in Fig. 10 the heddle 11 having a variation of cross section at 11 and at end eyelet 80.

As to claim 15, Palua illustrates in Fig. 10 the heddle 11 having cross sections that deviate at 11 and at the end eyelet 80.

As to claim 16, Palua illustrates in Fig. 8 a heddle support rail 8 having a bearing surface for the spring means 130.

As to claim 17, Palua illustrates in Fig. 8 a heddle support rail 8 having a bearing surface for the spring means 130 with the bearing face is stationary to the support rail 8.

As to claim 19, Palua illustrates in Fig. 8 the support rail 8 having a heddle 11.

Claims 1-2 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Koch (US 4,342,339). Koch illustrates in Fig. 1 a heddle 1 including an end eyelet 4 with a spring means 5 placed on it.

As to claim 2, Koch illustrates in Fig. 1 the spring 5 being integral to the end eyelet 4.

As to claim 7, Koch illustrates in Fig. 1 the spring 5 being a compression spring.

As to claim 8, Koch illustrates in Fig. 1 the spring 5 being a spiral spring.

As to claim 9, Koch illustrates in Figs. 1 and 3 that the heddle 1 is formed of a flat material and the end eyelet 4 is formed of a plane.

Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Beheer (NL 8,200,107). Beheer illustrates in Fig. 1 a heddle 7 including an end eyelet 3 with a spring means 6 placed on it.

As to claim 12, Beheer illustrates the heddle 7 is a flat material with an elongated end eyelet 3 with a bended edge 6.

Claims 1 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmeing (DE 100 35 886). Koch illustrates in Fig. 1 a heddle 2 including an end eyelet 1 with a spring means 3 placed on it.

As to claim 10, Schmeing illustrates in Fig. 2 a heddle 2 formed of a flat plane and the spring means 3 being a plane.

Claims 1, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dierman (BE 387926). Dierman illustrates in Fig. 3 a heddle 1 having an eyelet 3 for securing to the heddle rail with a spring member 3'.

As to claim 13, Dierman illustrates in Fig. 3 the heddle 1 being divided into a plurality of portions with each portion having a different cross section.

As to claim 14, Dierman illustrates in Fig. 3 the heddle 1 being divided into a plurality of portions with the cross section of the two sections have a ratio of 2 to 1 with the area they contain.

#### ***Allowable Subject Matter***

Claims 11 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:  
Claim 11 teaches a heddle formed of a flat plane and the spring means is embodied by a curve tongue that is not taught in the prior art. Claim 18 teaches the bearing surface of the heddle frame is adjustable that is not taught in the prior art.


***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Baumann (US 6,883,554) and Blickenstorfer (US 2,674,275) teach the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew W. Sutton whose telephone number is (571) 272-6093. The examiner can normally be reached on Monday - Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JOHN J. CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

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